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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,597	09/26/2001	Daniel S. Gluck	GLU-01	3506

7590 07/30/2003

Otho B. Ross
28th Floor (c/o Bierman)
600 Third Avenue
New York, NY 10016

EXAMINER
BORISSOV, IGOR N

ART UNIT	PAPER NUMBER
3629	

DATE MAILED: 07/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/965,597	GLUCK ET AL.
	Examiner	Art Unit
	Igor Borissov	3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *03* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 September 2001* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-49* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-49* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 17-20 and 39-42 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

As per claims 17-18 and 39-40, it is not clear what method steps does the term "advocate politically" actually comprise.

As per claims 19-20 and 41-42, it is not clear what method steps does the term "generate unpaid publicity" actually comprise.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 27, 30-44, 46 and 48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claims 27, 31-44, 46 and 48, these claims are confusing because they teach method steps while refer to a system.

As per claim 30, this claim is confusing because it incorporates the limitations of claim 24 while refering to claim 23.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-22, 47 and 49 are rejected under 35 U.S.C. 101 because the claimed method for energy consulting does not recite a limitaion in the technological arts. The independently claimed steps of: collecting data on energy usage from a customer and energy system supply data; calculating and reporting the availability and costs of energy systems; receiving a commitment from the customer to purchase at least one energy system; arranging the purchase and installation of the purchased energy system, are abstract ideas which can be performed mentally without interaction of a physical structure. Because the independently claimed invention is directed to an abstract idea which does not recite a limitaion in the technological arts, those claims and claims depending from them, are not permitted under 35 USC 101 as being related to non-statutory subject matter. However, in order to consider those claims in light of the prior art, examiner will assume that those claims recite statutorily permitted subject matter.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-7, 12-20, 22-30, 34-42, 44 and 47-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishimaru et al. (US 5,432,710) in view of Dworkin (US 4,992,940).

Ishimaru et al. teach energy supply method and system for optimizing energy cost, energy consumption and emission of pollutants, comprising :

As per claims 1, 3, 5-7, 13, 15, 23, 25, 27-29, 35, 37 and 47-49,

collecting data on energy usage from at least one customer and energy supply data from a plurality of suppliers, and calculating and reporting costs of energy usage expected by the customer (column 10, lines 14 – column 11, line 12).

Also, Ishimaru et al. teach energy system (power generation equipment) installed at the cusomer premises (column 8, lines 3-8; column 9, lines 27-29).

However, Ishimaru et al. do not teach for arranging the purchase and installation of energy system.

Dworkin teaches a method and system for automated selection of equipment for purchase through input of user desired specification, wherein a user specifies desired specifications and the system searches a database to retrieve products within the selected category at the best available price (Abstract).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ishimaru et al. to include arranging the purchase and installation of energy system, because it would allowed customer to chose his own

power generating equipment to fullfill the objective of optimizing energy cost, energy consumption and emission of pollutants.

As per claims 2, 4, 8, 14, 24, 26, 30 and 36, Ishimaru et al. and Dworkin teach said method and system, in which the data on energy usage comprise data on historical or anticipated electric power usage and energy generation preferences, including solar cells, fuel cells and wind power generators (Ishimaru et al. column 9, lines 27-29; column 10, lines 22-27).

However, Ishimaru et al. do not specifically teach for avilability of sunlight, avilability of hydrogen-based fuels and availability of wind.

Official notice is taken that it is well known that utilization of wind power generators and solar cells is possible if there is adequate amount of this resources.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ishimaru et al. and Dworking to include data on avilability of sunlight, avilability of hydrogen-based fuels and availability of wind, because the feasible utilization of said devices is only possible with adequate avilability of said resources.

As per claims 12, 22, 34 and 44, Ishimaru et al. and Dworkin teaches said method and system, in which the customer is kept informed of changes or new developments in available energy systems, costs and financing options (Dworkin, column 3, lines 12-14).

However, Ishimaru et al. and Dworkin do not specifically teach that the customer is kept informed through automatic email alerts.

Official notice is taken that it is well known to use email for communication.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ishimaru et al. and Dworking to include that the customer is kept informed through automatic email alerts, because the Internet is the largest available network, and using the Internet would allow to alert customer in real-time or near real-time environment.

As per claims 16-20 and 38-42, Ishimaru et al. further teach optimizing energy consumption and emission of pollutants (Abstract).

However, Ishimaru et al. do not teach for marketing, advocating politically, and generating unpaid publicity of non-polluting energy generation systems.

Official notice is taken that it is well known to advocate for non-polluting technologies due importance of reducing dangerous for human helth environmental contamination.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ishimaru et al. and Dworking to include marketing, advocating politically, and generating unpaid publicity of non-polluting energy generation systems, because it would allow to reduce environmental contamination thereby decrease the danger of human health.

Claims 9-11 and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishimaru et al. and Dworkin in view of Ardalan et al. (US 6,396,839).

As per claims 9-11 and 31-33, Ishimaru et al. and Dworkin teach all the limitations of claims 9-11 and 31-33, exept that the data on energy usage is collected interactively from an Internet Web site.

Ardalan et al. teach a method and system for remote access to electronic meters using a TCP/IP protocol suite, wherein the data on energy usage is collected from an Internet Web site (Abstract; column 4, lines 50-53).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ishimaru et al. and Dworking to include that the data on energy usage is collected from an Internet Web site, because the Internet is the largest available network, and using the Internet would be less costly then installation of the dedicated network.

Claims 21, 43 and 45-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishimaru et al. and Dworkin in view of Bezos et al. (US 6,029,141).

As per claims 21, 43 and 45-46, Ishimaru et al. and Dworkin teach all the limitations of claims 21, 43 and 45-46, except for encouraging the customer to contribute contact information of others via the website in return for a commission on sales resulting from such others.

Bezos et al. teach a method and system for Internet-based customer referral arrangement, wherein, if the customer selects a referrl link, the commision is automatically credited to an account of the referring associate (Abstract).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ishimaru et al. and Dworking to include encouraging the customer to contribute contact information of others via the website in return for a commission on sales resulting from such others, because it would allow to increase sales and revenues without adequate spendings for advertisement.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (see form PTO-892).

Any inquiry concerning this communication should be directed to Igor Borissov at telephone number (703) 305-4649.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703) 308-1113.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, John Weiss, can be reached at (703) 308- 2702.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington D.C. 20231

or faxed to:

(703) 305-7687 [Official communications; including After Final communications labeled "Box AF"]

THOMAS A. DIXON
EXAMINER